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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,990	04/15/2002	Derek Leslie Arnold	ARNOLD	2617
545	7590	10/22/2003	EXAMINER	
HANDAL & MOROFSKY 80 WASHINGTON STREET NORWALK, CT 06854			NERBUN, PETER P	
			ART UNIT	PAPER NUMBER
			3765	
			DATE MAILED: 10/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/049,990

Applicant(s)

ARNOLD, DEREK LESLIE

Examiner

Peter P Nerbun

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

Claims 11-20 are objected to for containing an error in syntax. In claim 11, line 5, "the latter" should be changed to --the two shields--. This change is necessary because "the latter" refers to the outer shield (note that the outer shield in claim 11, line 4 is the last adjective/noun combination preceding the recitation of "the latter" in claim 11, line 5).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (U.S.P. 5,765,235) in view of Booth. The patent to Arnold (235) discloses a visor assembly comprising an outer shield 2, Fig. 2 and an inner shield 6 spaced therefrom, which inner shield is located within the periphery of the outer shield, wherein mechanical fixing means 11 are arranged between the two shields for fixing the latter with respect to one another, said outer shield being provided with the aforesaid means 11 for fixing the two shields with respect to one another, said outer shield being provided with means 4 for fixing to a further component, such as a helmet. Note that that means 4 and 11 disclosed by Arnold are the same means disclosed by applicant for performing their respective functions. To construct the visor assembly of Arnold (235) with a seal/spacer extending around the periphery of said inner shield, the seal/spacer being fitted between

the outer and inner shield, the seal/spacer being stuck to the inner shield and fitted detachably against the outer shield as suggested by Booth (at 35, Fig. 2) would have been obvious since the seal/spacer would protect the inner shield from contact with the outer shield and would seal out some particulate matter within the environment that would otherwise enter between the two shields. With regard to claim 12, it would have been obvious that the width of the air chamber formed between the inner and outer shields could have been chosen to be at least 2 mm since applicant has presented no evidence of the criticality of this claimed range (viz. the range extending from 2 mm to a value somewhat greater than 2mm). *In re Hoeschele*, 406 F.2d 1403, 160 USPQ 809 (CCPA 1969). With regard to claims 14 and 16 the seal/spacer of the formed Arnold visor assembly could have been made from neoprene and further that the inner shield could have been made from heat-treated cellulose acetate material since the mere selection of a known material on the basis of suitability for the intended use would have been obvious. *In re Leshin*, 125 USPQ 416 (CCPA 1960).

Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (U.S.P. 5,765,235) in view of Booth, taken as applied to claims 11-19 above, and further in view of Scholz et al. To construct the formed visor assembly of Arnold (235) with a scratch resistant coating as suggested by Scholz et al (at col. 19, lines 57-58) would have been obvious since the visor would be protected from rough or careless handling by its user.

If applicant has any questions regarding the instant Office action, the examiner may be contacted at (703) 308-0955 from Monday to Friday between 10:00AM to 7:30PM during alternate weeks and from Monday to Wednesday between 10:00AM to

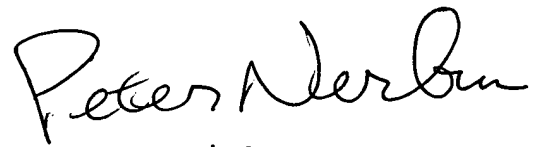
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7:30PM on the remaining alternate weeks. At other times between Monday and Friday  
applicant may contact the examiner's supervisor John Calvert at (703) 305-1025.

Peter Nerbun

October 16, 2003

A handwritten signature in black ink that reads "Peter Nerbun". The signature is written in a cursive style with a large, looped "P" and a trailing "un" at the end.

Peter Nerbun  
Primary Examiner